

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

JOSEPH GOODWIN,

Civil No. 08cv05931 JNE/JJK

Plaintiff,

v.

**REPORT AND
RECOMMENDATION**

SLUMBERLAND INC.,

Defendant.

Plaintiff commenced this action on November 7, 2008, by filing a self-styled complaint, and an application seeking leave to proceed in forma pauperis, (“IFP”). (Doc. Nos. 1 and 2.) The Court previously examined Plaintiff’s submissions, and determined that his complaint failed to state an actionable claim for relief. Therefore, in an order dated November 12, 2008, (Doc. No. 3), the Court informed Plaintiff that his IFP Application would “not be granted at this time.” That order gave Plaintiff an opportunity to file an amended complaint, and expressly advised him that if he did not file a new pleading within 30 days, the Court would recommend that this action be dismissed without prejudice pursuant to Fed. R. Civ. P. 41(b).

The deadline for filing an amended complaint has now expired. To date, however, Plaintiff has not complied with the Court’s prior order, nor has he offered any excuse for his failure to do so. Indeed, Plaintiff has not

communicated with the Court at all since he filed his complaint. Therefore, the Court will now recommend, in accordance with the prior order, that this action be dismissed without prejudice pursuant to Fed. R. Civ. P. 41(b). See Henderson v. Renaissance Grand Hotel, 267 Fed.Appx. 496, 497 (8th Cir. 2008) (unpublished opinion) (“[a] district court has discretion to dismiss an action under Rule 41(b) for a plaintiff's failure to prosecute, or to comply with the Federal Rules of Civil Procedure or any court order”); see also Link v. Wabash Railroad Co., 370 U.S. 626, 630-31 (1962) (recognizing that a federal court has the inherent authority to “manage [its] own affairs so as to achieve the orderly and expeditious disposition of cases”).

Based upon the above, and upon all the records and proceedings herein,

IT IS HEREBY RECOMMENDED that:

1. Plaintiff's Application To Proceed In Forma Pauperis, (Doc. No. 2), be **DENIED**; and
2. This action be **DISMISSED WITHOUT PREJUDICE**.

Dated: December 18, 2008

s/ Jeffrey J. Keyes
JEFFREY J. KEYES
United States Magistrate Judge

Under D.Minn. LR 72.2(b) any party may object to this Report and Recommendation by filing with the Clerk of Court, and serving all parties by January 2, 2009, a writing which specifically identifies those portions of this Report to which objections are made and the basis of those objections. Failure to comply with this procedure may operate as a forfeiture of the objecting party's

right to seek review in the Court of Appeals. A party may respond to the objecting party's brief within ten days after service thereof. All briefs filed under this rule shall be limited to 3500 words. A judge shall make a de novo determination of those portions of the Report to which objection is made. This Report and Recommendation does not constitute an order or judgment of the District Court, and it is therefore not appealable directly to the Circuit Court of Appeals.